

1 of crime or no rise of crime in connection with
2 gambling is more important, then that is what we will
3 bring back to the Commission itself. But I hope that
4 by the next Commission meeting, we will have an
5 overview of all of the other areas of research. I
6 wanted to signal ahead of time that economic impact
7 would be the most important area in my view that we
8 ought to be proceeding with.

9 CHAIRPERSON JAMES: Thank you. And again,
10 I want to thank that committee for the work that they
11 have done and I would not attach too much significance
12 to the title that they were given. I realize that it
13 is a term of art and may carry some significance, but
14 we had to call them something. But we do appreciate
15 the work that they have been done. We could call them
16 worse.

17 I just had a couple of administrative
18 matters and then I want to turn to the questions that
19 were raised earlier by Mr. Loescher. Just to give you
20 an update on a few things. One, I had mentioned
21 earlier that the Commission does have offices now and
22 it is at 800 North Capitol Street. Particularly for

1 the public, I want to give out that telephone number.
2 I did a little check myself yesterday. I called
3 Information just to see if I could find the Gambling
4 Commission by calling Information and getting the
5 number, and I could not. So I want to make sure that
6 everyone has that number. I am sure that our newly
7 hired receptionist was much appreciative of the fact
8 that I am going to do this. Her name is Deborah
9 Ducre. You may have seen her as she was registering
10 people. She is one of the new staff there. She will
11 put a good face on the Commission, I am sure, and a
12 friendly voice on the other end of the phone. But our
13 telephone number for the office is (202) 523-8217.
14 The fax number for the office is (202) 523-4394.

15 I wanted to give you a little bit of an
16 update on just setting up an office like that. As you
17 can imagine, it is a huge task and we all should be
18 grateful to Mark Bogdan, who is our chief
19 administrator, who has been responsible for everything
20 from the computers to the telephones to processing
21 your reimbursements and that sort of thing. Mark has
22 just absolutely been inundated. We owe him our thanks

1 for all that he has done. Even though there may have
2 been glitches or problems, that is to be expected.
3 But given that, I think he has just done a fantastic
4 job. For some of you who may not remember, Mark comes
5 to us from another commission. He brings a great deal
6 of experience to this and wisdom. He has done this in
7 the past and I rely heavily upon his wisdom and his
8 expertise in handling administrative matters.

9 I wanted to give you an update on where we
10 are in the executive director search. It has been
11 amusing to me to watch as some of the newspapers have
12 reported rumors instead of facts in terms of where we
13 are in that process and citing "sources close to the
14 Commission." Well, to the reporters who are present,
15 if those are your sources, they are not all that close
16 because they are wrong. Where we are, in fact, at
17 this point is that I have asked two Commissioners if
18 they would, in fact, review some of the candidates
19 that I have looked at and gleaned through and
20 identified. I have asked them to give me the benefit
21 of their wisdom and their expertise. And had it not
22 been for vacation schedules and travel schedules, we

1 may have had someone that we could bring forward
2 today. There is zero attempt to delay the process.
3 No one other than I and my staff want an executive
4 director faster, I assure you. And the ability to
5 have someone on site who is giving full attention to
6 this all day every day I think is in the best interest
7 of the Commission. And as soon as we are able to
8 facilitate that process happening, I hope to have a
9 name before the Commission for consideration. But I
10 did want to give you the benefit of an update on that.

11 Are there -- I want to know if there are
12 any administrative issues or problems that we are
13 having, just in terms of process. There is one other
14 thing that I would note before we get to that. There
15 was a recommendation, which I think is an excellent
16 one, and that is that the Commission have a Web site
17 where all of the information and data is made
18 available. It will save staff tremendous amounts of
19 time when people are able to access reports,
20 transcripts. It is our desire to make the information
21 as easily available and ready to the public as
22 possible. And I think a web site for the Commission

1 would help facilitate that. So we are going to try to
2 make that happen. Yes, John?

3 COMMISSIONER WILHELM: Just a small
4 procedural question. For Commissioners communicating
5 with you, would we communicate to the Commission
6 office or to your office?

7 CHAIRPERSON JAMES: The Commission office.
8 That is a very practical matter. There is a very
9 small staff in my office on campus, and we have had a
10 problem with information getting through and notices
11 getting in, and we have a professional staff that is
12 to do that. I think they can handle that volume far
13 better than my university office can. Yes?

14 COMMISSIONER LOESCHER: Madam Chairman, I
15 have a number of things. One is I don't want to be
16 financing this Commission on my travel and expenses,
17 and I have not been able to get reimbursed for that.
18 I would like to see that there be an expeditious
19 process to make that happen. Because it takes me
20 about 7 to 10 hours to fly from Alaska to here and it
21 is very spendy to do that. So I would like to request
22 that you find a procedure and the personnel to make

1 those things happen.

2 CHAIRPERSON JAMES: Mark, I don't know if
3 you want to address that at all?

4 MR. BOGDAN: The check reimbursements for
5 your first meeting, we should have those back within
6 two or three weeks at the absolute most. It is on --
7 the process has been set up. I expect to have checks
8 within 4 weeks of this meeting.

9 CHAIRPERSON JAMES: Mark, if you could
10 come forward, it would be helpful.

11 MR. BOGDAN: As I was reiterating, the
12 reimbursements for your first meeting, we should have
13 those checks within the next two to three weeks from
14 GSA in Kansas City. And going forward from this
15 meeting, once I have your expense vouchers that you
16 send to me after this meeting, I will have checks to
17 you within four weeks, if not three, once the system
18 is running. It will be running after this meeting.
19 It was unfortunate that it took a while to get things
20 ironed out setting up after the first meeting. That
21 is why we had the delay we had.

22 COMMISSIONER LOESCHER: Madam Chairman?

1 CHAIRPERSON JAMES: Yes.

2 COMMISSIONER LOESCHER: A different
3 matter. I wonder about this Web site business. It
4 costs a lot of money to have a Web site. It has to be
5 managed and maintained. The data has got to be edited
6 and made sure that it is representative of the books
7 and records of the Commission. So I would really like
8 to hear more about this Web site before it is finally
9 implemented. We have experience with Web sites, and
10 they are not all what they are cracked up to be. They
11 help provide information, but they have to be managed
12 and there is a cost to them. That is just an opinion
13 for the record.

14 Madam Chairman, I have another item. I am
15 very chagrined to hear that you counsel with some
16 Commissioners and you don't counsel with others
17 regarding, for instance, the hiring of an executive
18 director. I think your practice is not very conducive
19 to getting this thing done expeditiously, and I object
20 to this procedure.

21 The other is that I think by statute that
22 one of the first orders of business of this Commission

1 is to get an executive director on board and these
2 delays that we are encountering I don't think are
3 helpful. The other thing is that I see a process
4 occurring here where committees of this Commission are
5 getting involved in contracts and scoping and things
6 are happening in terms of hiring staff and on and on
7 and I think an executive director or professional
8 manager is needed for this Commission in order to put
9 this in order. The statute provides for that, and I,
10 as one Commissioner, would like to see that happen
11 sooner than later.

12 CHAIRPERSON JAMES: I as one Commissioner
13 would like to see that happen much sooner rather than
14 much later, I assure you. You had some other issues,
15 Mr. Loescher, that you wanted to bring before the
16 Commission?

17 COMMISSIONER LOESCHER: Madam Chairman, it
18 is the proper moment to consider the agenda and
19 whatever policy issues that are surrounding that. I
20 would like to suggest to you that my observation is
21 that I think we need to formalize the practice of the
22 conduct of the Commission by standardizing our agenda

1 and having some expectation that it will be a
2 standardized event that we, as Commissioners, and the
3 public can expect. This current agenda we have today
4 looks like we are not even following it, but I guess
5 we are stuck with it for today. I would have much
6 rather had the public comment period up front at the
7 beginning of the meeting because there is possibly
8 things that the public has to say that might be
9 helpful in our deliberations.

10 I personally today, if it is proper at
11 this time or sometime soon, would like to comment
12 about the rules of procedure. We either need interim
13 rules of procedure and deliberate the proposed rules
14 that are advanced today or by members of this
15 Commission. I would like to do that early, even if we
16 consider interim rules today and consideration of the
17 process of how we deliberate the proposed rules and
18 then have the session tomorrow at 9:00. That is fine
19 with me. But I would like to consider that. I have
20 a series of motions that I would like to present to do
21 that.

22 But I have -- I really believe that we

1 need to formalize the agenda. I would prefer a model
2 agenda that would contain these kinds of things --
3 call to order, declaration of quorum, approval of
4 agenda, approval of minutes of the previous meeting,
5 public comments, invited speakers, chairman's report,
6 committee reports, executive director's report, closed
7 session if necessary, old business, new business,
8 hearing if it is properly scheduled, Commissioner
9 comments, adjournment. I think that kind of a model
10 agenda would allow us to conduct business. In my
11 opinion, the way we are structuring our current
12 agendas, they are not conducive to making decisions.
13 And I believe that the Commission should start moving
14 towards making decisions starting with this meeting.

15 I was hopeful that certain decisions could
16 be made at this meeting -- the executive director
17 hire, the issue of legal counsel, the issue of the
18 schedule and workplan direction, the issue of how we
19 deal with contracts and subcontracts. If we could
20 give guidance to the chair and to the administration
21 of the Commission in these general areas, then
22 possibly by the next meeting, we would have the

1 ability to make decisions with regard to those
2 matters.

3 My understanding is that there is some
4 question in your mind that the agenda can be approved
5 by the Commission. You suggested at the last meeting
6 that we would follow the statute that enables this
7 Commission, the FACA rules, and Roberts Rules of
8 Order. If that is the case, I believe that common
9 practice is that the Commission would be able to
10 approve the agenda. I believe that we should have
11 that practice. If there is a contrary view, I think
12 we need to start with a discussion of that matter.

13 CHAIRPERSON JAMES: Thank you. There are
14 a couple of issues that I think are important to
15 address. There are certain statutory requirements
16 that I, as the chair, have, not the least of which is
17 to give public notice of what the agenda is. I think
18 the public has a right to know what, in fact, we are
19 going to talk about, so that they can be prepared.
20 And so I think as a result of that, for us to come to
21 a meeting and then approve our agenda or take agenda
22 items off does not give the public the time that they

1 need to have in order to prepare themselves to
2 participate in our deliberations.

3 In terms of the suggestions that you made
4 about a model agenda, I think that there are certainly
5 some good ideas and some good suggestions there and
6 ones that I would be happy to incorporate. I think it
7 is important for us to have some structure that the
8 Commission members understand and know that we will
9 always have a call to order and that we will always
10 adopt the minutes of the previous meeting. There are
11 -- I believe it is important for us to understand the
12 full statutory requirements as it relates to the
13 agenda, so I am going to ask -- and I am not an
14 attorney -- and I will ask the representative from GSA
15 and the attorney who is currently working on staff to
16 address that particular issue. And then I will have
17 some concluding comments and if necessary then we will
18 have a vote. Mr. Snowden?

19 MR. SNOWDEN: Thank you, Madam Chair. To
20 the issue of the agenda. FACA requires that you put
21 a summary notice in your public notice to give the
22 agenda -- a summary notice of what will be the issues

1 discussed at the agenda during the meeting. It is at
2 that time that the public would know what the issues
3 are that are going to be discussed and whether they
4 want to participate. Your proposed rules say that you
5 will, as in your notice -- if there are interested
6 parties that want to speak before you, they are to
7 prepare a written testimony prepared for you and they
8 express their interest to testify or to appear before
9 this group. It would seem then -- and it is inferred
10 that the Chair would set the agenda, that is, set the
11 very general rules, the general scope of what is going
12 to be discussed, and then do the chronology of when
13 those things would occur and seek the opinion or the
14 views or additions to the agenda from the
15 Commissioners before the notice in the Register. So
16 that would be the point that you would get your input.
17 Once it is published, it really needs to go as
18 proposed.

19 CHAIRPERSON JAMES: Let me just say this
20 for the record. I have been meticulous in bending
21 over backwards to accommodate the requests of the
22 Commissioners in making sure that if a Commissioner

1 wants something added to the agenda that we
2 accommodate that request and make that happen. But I
3 do have a responsibility for making sure that our work
4 gets carried out in an ordered and a timely fashion,
5 and as a result of that -- and I have a responsibility
6 to the public. What I would like to do is to follow
7 the process that we have outlined in the law in terms
8 of having public -- stated in our public notice for
9 our meetings what the agenda will be. One of the
10 things that I said to each of you as Commissioners is
11 that you may not ever like all of what I am going to
12 say, but I am trying desperately to make sure there
13 are no surprises. No surprise items that come up on
14 the agenda, either surprises to the public or to
15 Commission members.

16 As a result of that, the most orderly
17 process for operating the Commission is that
18 Commissioners give input to what they would like to
19 see on the agenda. The agenda is published in the
20 public notice. I am happy to entertain at any
21 Commission meeting a rearranging of the agenda.
22 Things change. People's schedules change. As an

1 example, Mr. Hill would not have been able to address
2 the Commission today had I not had the ability to add
3 him to the agenda when that request came several days
4 before the Commission meeting. I would hate to see us
5 get into a position where the Commission sets an
6 agenda months in advance and then are not able to
7 respond to changing schedules. I had to change the
8 agenda in order to accommodate the schedule of the
9 Senator. There were lots of things that go in. When
10 you have nine people that are trying to set an agenda
11 that don't have the benefit of all of the information
12 coming into one place, it becomes truly burdensome.
13 Richard?

14 COMMISSIONER LEONE: Yes. As long as we
15 are expressing opinions, I actually think that this --
16 I think this is not a profitable area for us to spend
17 a lot of time on. I have found, and I think we are
18 going to find, that the Chair is quite responsive to
19 notions people have about what ought to be on a future
20 agenda. I am sure you are going to be responsive to
21 suggestions that make practical sense. Maybe the
22 Commissioners should comment at the end. I hadn't

1 thought about that. But I think to work in an
2 effective fashion, you have got to have an effective
3 chair who is capable of -- who has the support of the
4 members, not simply the technical responsibility or
5 legal responsibility to go ahead and plan our work and
6 get it moving forward. If we have a problem -- if
7 there was a problem with something getting on the
8 agenda or if things were being left off or if a
9 particular approach was being embodied in
10 administrative matters, then I think we should address
11 it and handle it. But at this point, I would hope
12 that we don't get too formal about what we need to do.
13 I think some suggestions have been made.

14 CHAIRPERSON JAMES: They are good ones.

15 COMMISSIONER LEONE: I believe we will take
16 them to heart and we will proceed within the law and
17 move forward. As a practical matter, I understand
18 that there are big stakes for many people in this room
19 and around this table in the Commission and in that
20 context, this particular procedure or that particular
21 procedure may be seen as having significant
22 consequences down the road. But we are not going to

1 get our work done or accomplish much for anybody if we
2 start this -- I mean, I have never had the benefit of
3 an education by the Jesuits. That is probably -- I
4 went to a little central school in West Webster, New
5 York. So some of these is lost on me. But I think I
6 would like to just personally say I hope we can move
7 beyond these. Maybe many of these issues can be
8 handled in consultation with GSA and administrative
9 matters and get along in this agenda today.

10 CHAIRPERSON JAMES: I would certainly hope
11 so. Dr. Dobson?

12 COMMISSIONER DOBSON: Madam Chair, Bob
13 indicated that he wanted to see us move expeditiously
14 and we are going to have to if we are going to get our
15 work done in six or seven meetings. Because we have
16 got a lot of ground to cover. But you were critical,
17 Bob, of the Chair's request for two members to assist
18 her in interviewing possible executive directors. Can
19 you imagine what it would do to her schedule and ours
20 to try to get nine people to get their travel
21 schedules together in order to do that interviewing?
22 There has to be an administrative flow to these

1 things. Speaking personally, I do not want to be
2 contacted over every tiny thing that happens and the
3 Chair has to be empowered to make some of these
4 decisions.

5 MR. SNOWDEN: Let me weigh in here for a
6 minute. Thank you. Let me give you the practical way
7 commissions operate, and I am talking about hundreds
8 of commissions that I have had to provide
9 administrative support for. The Chair has done
10 exactly what other chairpersons have done. She has
11 gotten a committee of a few commissioners or board
12 members and asked them to review the resumes or the
13 vitae's of potential executive director candidates and
14 make a recommendation to her. She then -- because the
15 law says very clearly that she selects and you
16 approve. She then would make a recommendation. That
17 is in keeping -- it is not written in law. There is
18 no regulation in GSA that says this is how this is
19 supposed to operate. But this is just the common
20 sense approach that most commissions have employed in
21 their efforts to move expeditiously in finding an
22 executive director.

1 CHAIRPERSON JAMES: Having said that, I am
2 going to move this meeting along a little bit. With
3 that, I would ask, Bob, if you have any other issues,
4 and I know you have one or two more that you would
5 like to discuss, if you would bring them up at this
6 time.

7 COMMISSIONER LOESCHER: Madam Chairman,
8 yes. Okay, Madam Chairman, I would like to move that
9 we approve the agenda advance in the packet.

10 CHAIRPERSON JAMES: That is an unnecessary
11 vote in terms of my understanding of how this
12 Commission must operate.

13 COMMISSIONER LOESCHER: Madam Chairman, I
14 make a motion to appeal the ruling of the Chair.

15 CHAIRPERSON JAMES: Well, why don't we
16 talk a little bit about that process, and this is
17 going to come up tomorrow as we talk about the rules.
18 What the process is for appealing the ruling of the
19 Chair and who the final authority is. I think it is
20 a very interesting discussion. Would either of you
21 like to take that one on?

22 Let me tell you what my understanding is

1 in terms of the final authority. GSA gives guidance
2 to this Commission. The final authority -- and if you
3 want to overrule the Chair or if you would like to
4 appeal, then your ultimate place to do that is in
5 Congress.

6 MR. SNOWDEN: Let us understand that the
7 ultimate authority -- you are an autonomous,
8 independent agency and you fall in that proverbial
9 abyss where there is no oversight agency for you.
10 That is a good thing. Trust me on that. That is a
11 good thing. That is not a bad thing. That is a good
12 thing. You are a legislative agency. No one has
13 oversight over you. If you want to have changes --
14 the guiding principles are your law and existing
15 regulations. Should you want to have a change in your
16 law on procedural matters, the place where you would
17 go to get those kinds of issues addressed is on the
18 floor of Congress where they would have to introduce
19 a technical change to your legislation. I assure you,
20 if you give Congress another bite of the apple, the
21 way you will operate today might in fact be quite
22 different. So we want to be very careful as we go

1 forward.

2 CHAIRPERSON JAMES: Let me just say for
3 the record on this, I actually have no problem with
4 anything that you suggested in terms of the outline of
5 how the Commission ought to, in fact, organize its
6 agenda. What I don't want to get into is that we must
7 have a rule that the agenda cannot go forward without
8 the approval of this body. Now if we would like to do
9 that, I think it opens up an entire can of worms. It
10 will slow down this process. Let me do this. I am
11 going to suggest that with the opinion that you have
12 from GSA and with my comments, that if you would like
13 a vote on that issue, I will call for a vote. Each
14 Commissioner can then speak for the record and voice
15 their opinion on that. We can have a vote and then
16 move on. I certainly have no objection to that. If
17 you want to go on the record and we can continue to
18 have some research on this issue, that is fine with
19 me. Would you like -- you have a motion. Would you
20 like to call for a vote on your motion? We need a
21 second. Do we have a second for the motion?

22 COMMISSIONER LOESCHER: Madam Chairman,

1 the motion is to appeal the ruling of the Chair and
2 the Chair's decision was that this Commission shall
3 not have the right to approve the agenda. So a yes
4 vote would support the Chair's position and a no vote
5 would be contrary.

6 CHAIRPERSON JAMES: That is correct. And
7 mine is a procedural process question as to whether or
8 not we want to slow down the work of this Commission
9 by not having an agenda -- now think about the
10 implications of this. That you will not have an
11 agenda that is firm that the public will know and
12 understand until you arrive here at a meeting.

13 COMMISSIONER DOBSON: And that is contrary
14 to the statute.

15 CHAIRPERSON JAMES: That is contrary to
16 the statute.

17 COMMISSIONER BIBLE: I don't believe you
18 said that. Did you say that is contrary to the
19 statute? That the statute empowers the chairman to
20 propose the agenda?

21 CHAIRPERSON JAMES: One at a time.

22 MR. SNOWDEN: This is the question. I

1 just wrote it. Clarification of the approval issue.
2 Prior to the notice, what you are saying is do the
3 Commissioners have the authority to approve agenda
4 items prior to the notice in the agenda, then the
5 answer to that question is yes. If the question is do
6 you have the authority to approve the agenda that you
7 operate under, for instance, the agenda that we have
8 here today, no, because you have already published
9 that in the Federal Register. So if you are asking do
10 you have input prior, the answer to that question is
11 yes. If that is what you are asking -- if you are
12 asking a yes or no on that, then that is another vote.
13 But once the chair has established the agenda that has
14 been published and noticed in the Federal Register, do
15 you have the authority to approve or disapprove, the
16 answer to that would be no.

17 CHAIRPERSON JAMES: Okay. Are we clear
18 about that?

19 COMMISSIONER BIBLE: But again, on a
20 process basis, prospectively if this Commission
21 decided to adopt an agenda for the next meeting, that
22 would be legally permissible?

1 MR. SNOWDEN: Yes.

2 MS. SIMPSON: Addressing the process issue
3 of this, if you are going to adopt an agenda today for
4 the next meeting when you are going to have a lot of
5 open questions out there -- if you adopt that agenda,
6 then you need to ask yourself what is the procedure to
7 change that agenda. Because you guys are going to
8 meet about six times total. So if you adopt one now
9 and that is the adopted agenda and you are saying we
10 want to take that authority away from the chair to try
11 to amend that or as things come up to add that to it,
12 then you are putting a process on this that is going
13 to limit any participation in the future.

14 COMMISSIONER BIBLE: But you aren't making
15 a legal argument. You are making a process argument.

16 MS. SIMPSON: I am making a process
17 argument there. I will make two legal points. One is
18 that you cannot limit the chair's ability to insure
19 proper public participation. She must be able to do
20 what she needs to do. And as you vote, I think the
21 motion before the floor is to appeal her ruling. And
22 I just want to make sure before you vote on that --

1 and Calvin, I think you need to make sure that you
2 back this up -- is you are going to appeal that to
3 Congress. So you are about to vote to appeal
4 something to Congress. Is that not -- who are they
5 going to appeal it to?

6 MR. SNOWDEN: Well, as far as technical
7 amendments to your legislation.

8 MS. SIMPSON: Right. But I am saying the
9 only binding authority on this Commission is Congress.

10 COMMISSIONER BIBLE: But where the law is
11 silent, the Commission can affect to adopt rules to
12 govern their conduct.

13 CHAIRPERSON JAMES: No, we cannot.

14 MR. SNOWDEN: You cannot -- let me address
15 that. The law is very specific. It says that you can
16 adopt rules that do not conflict with your existing
17 legislation or any other prevailing piece of
18 legislation that governs your operation. So you are
19 very structured in how you can proceed. But your
20 question about whether you can prospectively vote on
21 an agenda today, that clearly is within your purview.

22 COMMISSIONER BIBLE: So there are areas

1 where the Commission can adopt rules to govern their
2 conduct as long as they don't conflict with our
3 enabling legislation or some other federal statute or
4 regulation?

5 CHAIRPERSON JAMES: That is correct.

6 COMMISSIONER BIBLE: Now if there is an
7 appeal --

8 CHAIRPERSON JAMES: Could you speak and
9 make sure that --

10 COMMISSIONER BIBLE: Now if there is an
11 appeal or something of that nature from a ruling of
12 the chair, that is not appealable to Congress as
13 suggested. My assumption is that you are not advising
14 us that we are breaking the law or anything of that
15 nature.

16 CHAIRPERSON JAMES: That is correct.

17 MR. SNOWDEN: Exactly.

18 COMMISSIONER BIBLE: You may just indicate
19 that this is the practice in federal study commissions
20 to conduct their affairs in this manner, but you are
21 not bound by that.

22 MR. SNOWDEN: Let me -- I need to say

1 this. You will be hard-pressed to find a law that
2 says thou shalt and thou shalt not. So some of the
3 things that we are talking about today are common
4 sense issues. There is not going to be a regulation
5 and there is not going to be a law that says thou
6 shalt perform or thou shalt not. I defy anyone to
7 find such. Clearly, from my perspective, I wish we
8 had those kinds of laws because my life would be a lot
9 easier. I wouldn't be here trying to help you guys
10 through this. But let us understand that we will be
11 hard-pressed to find a law that says you cannot.

12 COMMISSIONER BIBLE: No, I understand. On
13 this particular issue, let me express my personal
14 opinions. I agree with the process issue. The
15 chairman has to have the ability to adjust and set the
16 calendar. That is common in all groups.

17 CHAIRPERSON JAMES: Could you really speak
18 loudly? I know that there are members of the press
19 and others who would love to hear what you are saying.

20 COMMISSIONER BIBLE: Just on that
21 particular point? I think just as a process issue, it
22 is important that the chairman be allowed the ability

1 to set the agenda. I think the Commission clearly in
2 their meetings prior to the next meeting can indicate
3 general preference and guidance as to those items that
4 they want on the agenda. I believe that there is a
5 legal requirement in terms of notice that is necessary
6 to meet in terms of rules of the operation of the
7 Commission, which we are going to talk about a little
8 bit later. And if I understood Mr. Snowden's legal
9 advice correctly, we could move for that item to be
10 heard today, because apparently we can move the agenda
11 around.

12 CHAIRPERSON JAMES: I am always happy to
13 accommodate that.

14 COMMISSIONER BIBLE: And I guess from an
15 open meeting law standpoint, we could do that.

16 CHAIRPERSON JAMES: As a very practical
17 matter, it is very important for me that the
18 Commission hear and understand this. It is very
19 important to me as the Chairman to protect the right
20 of the public to know and to participate.

21 COMMISSIONER BIBLE: I couldn't agree
22 more.

1 CHAIRPERSON JAMES: And it is very
2 important for us when we publish a Federal Register
3 notice to say what the agenda is going to be that we
4 do not come to a Commission meeting after that and
5 change that agenda. Before you come in and before we
6 publish a Federal Register notice, what authority does
7 the Commission have in order to add agenda items, to
8 suggest agenda items? I think that every one of you
9 will acknowledge that even down to speakers that you
10 have recommended, we have tried to accommodate every
11 one of those for the agenda. We are trying to fix
12 something here that isn't broken, and we are trying
13 to, I think, set up some rules and regulations that
14 are going to restrict the public's right to know ahead
15 of time and then to participate. That is my only dog
16 in this fight.

17 COMMISSIONER LOESCHER: What rules are we
18 trying to establish that restrict the public right?

19 CHAIRPERSON JAMES: I think if you say
20 that the agenda must be approved at the beginning of
21 the meeting with the opportunity to change that -- you
22 would assume that if you are going to approve it that

1 you may want to disprove something on the agenda after
2 that has been published in the Federal Register, then
3 that is a problem. And that is what my problem is.

4 COMMISSIONER LOESCHER: Madam Chair --

5 COMMISSIONER BIBLE: Mr. Snowden has
6 already said we can't do that on a legal basis.

7 CHAIRPERSON JAMES: That is absolutely
8 right. We cannot. And that is what my comment was
9 about that you cannot break the law.

10 COMMISSIONER LOESCHER: Madam Chairman?

11 CHAIRPERSON JAMES: Mr. Loescher, I will
12 recognize you in just a minute. That is the problem
13 that I think is very important for us as a Commission
14 to make sure that we do not violate. We come under
15 FACA. We have to publish our Federal Register notices
16 and we want to publish our agenda therein to
17 accommodate that.

18 COMMISSIONER LOESCHER: Madam Chairman?

19 CHAIRPERSON JAMES: Mr. Loescher?

20 COMMISSIONER LOESCHER: I would like to
21 request my second to withdraw my motion to appeal the
22 ruling of the Chair and I would like to make another

1 motion after that.

2 CHAIRPERSON JAMES: We would be happy to
3 entertain that motion.

4 COMMISSIONER LOESCHER: Will my second
5 agree?

6 CHAIRPERSON JAMES: I didn't know -- you
7 didn't have a second. You never had a second on that.

8 COMMISSIONER LOESCHER: On the motion to
9 appeal, I had a second.

10 CHAIRPERSON JAMES: Who seconded that?
11 You did not have a second.

12 COMMISSIONER LOESCHER: Okay. It is
13 withdrawn. I would like to make a motion that we
14 adopt a model agenda format as I had described
15 earlier.

16 CHAIRPERSON JAMES: I have no problem with
17 that. And as a matter of fact, Mr. Loescher, in a
18 gesture of good will, I will second that.

19 COMMISSIONER LOESCHER: Madam Chairman,
20 you can't as the chairman.

21 CHAIRPERSON JAMES: I can't. If that is
22 fine and if the others -- can we get a second?

1 COMMISSIONER BIBLE: I'll second that.

2 CHAIRPERSON JAMES: Can we get a second on
3 that motion?

4 COMMISSIONER BIBLE: I said I will second
5 the motion.

6 CHAIRPERSON JAMES: Mr. Bible will second.

7 COMMISSIONER LOESCHER: Call for the
8 question.

9 CHAIRPERSON JAMES: Are there any
10 questions or discussion?

11 COMMISSIONER MOORE: May I make one
12 comment?

13 CHAIRPERSON JAMES: You can -- we always
14 welcome your comments, Dr. Moore.

15 COMMISSIONER MOORE: You know, I am 70
16 years old. And as I look around this room, I have
17 been fortunate in my life. I never have had many
18 bosses. For the last 40 years, I have been my own
19 boss. I have run things as I want to run them. My
20 bosses were my patients and that was about it -- my
21 patients and my referring physicians. Of all the
22 Commissions that I have served on, I consider this one

1 the most important, even though I did not get a plaque
2 from the President. I would hate for us to get so
3 bogged down in government regulations or personal
4 regulations that we can't do anything. Let's don't be
5 just -- most of the time that you present a committee
6 or something, that is to kill something. This is a
7 commission to accomplish something. I think that this
8 is one of the most important things that we can study.
9 We have been hearing people talk this morning about
10 how good gambling is. I don't know how good gambling
11 is. I gamble a little. I don't know how bad gambling
12 is because I don't see all of these problems that a
13 lot of people see. But by golly that is what we are
14 supposed to study. And every time a reporter calls
15 and wants to talk to me as well as you, the first
16 thing he asks is do you think that you will ever come
17 out with a report that is worth a damn? And my answer
18 to him is you got it. I have never met you people. I
19 have never heard of anybody's name but Dr. Dobson
20 until I got on this Commission two years ago. But I
21 believe that this is a group of people -- I believe
22 that they are responsible. By golly, they are

1 educated. And I believe that we can do something.

2 But not if we keep on doing what we are doing today.

3 CHAIRPERSON JAMES: I thank you. I
4 appreciate those comments. And I would very much love
5 to move along in the agenda at this point. Let me --
6 no, we have not taken a vote. And what we need to do
7 is to make sure that we all understand what we are
8 voting on. What I would like to do is to read to you
9 the suggestion or the -- what Mr. Loeschler would like
10 for us to consider for adoption at this point. Call
11 to order, declaration of quorum -- and I deleted the
12 approval of the agenda from that -- approval of the
13 minutes. I think that according to the legislation,
14 we don't approve the minutes. We adopt the minutes.
15 Is that the correct language?

16 MR. SNOWDEN: Yes.

17 CHAIRPERSON JAMES: So we adopt the
18 minutes.

19 MR. SNOWDEN: Yes. The adopted minutes --
20 we summarize the minutes and adopt them.

21 COMMISSIONER LANNI: I have one question
22 relative to that, Madam Chair. Again, I understand

1 the good doctor's comments and I agree with him. But
2 relative to the minutes, if we adopt the minutes --
3 you had mentioned earlier that we had the summary form
4 of minutes but we are actually going to adopt the full
5 version of the minutes which are available to each
6 Commission member.

7 CHAIRPERSON JAMES: No, that was the
8 transcript.

9 COMMISSIONER LANNI: Just the transcript?

10 CHAIRPERSON JAMES: Not the minutes. Just
11 the transcript. What you are looking at in terms of
12 the minutes is the only thing that will exist.

13 COMMISSIONER LANNI: This is the only set
14 of minutes?

15 CHAIRPERSON JAMES: That is correct.

16 COMMISSIONER LANNI: Thank you.

17 CHAIRPERSON JAMES: That is correct. So
18 you will have the opportunity at that point to adopt
19 the minutes. Now I have some question about whether
20 or not we truly want to lock ourselves into public
21 comments coming on the agenda at that particular time
22 and not allowing us the flexibility based on location,

1 where we are, based on speakers, and based on a
2 variety of things. Whether or not in fact we always
3 want to have the public comment period immediately at
4 that point in time. I am happy -- yes? Is there any
5 discussion on that subject? I can see why there may
6 be some cases where you may not want to do that at
7 that particular time. My suggestion is that we could
8 approve all of the items on here but perhaps look at
9 the order -- that they not necessarily have to flow in
10 this order.

11 COMMISSIONER LOESCHER: Madam Chairman, I
12 have no objection to that.

13 CHAIRPERSON JAMES: Okay. The Chairman's
14 report, Committee Reports if there are any, Executive
15 Director's report, closed session if necessary, old
16 business, new business, hearing, Commission comments,
17 and adjournment. The only thing that I would add to
18 your model agenda format is that we, for a variety of
19 reasons, may choose to amend this model format to
20 facilitate a particular site where we are -- site
21 visits. There are a variety of reasons why we may
22 want to amend that. And I would like to have the

1 flexibility of making that recommendation to this
2 Commission.

3 COMMISSIONER LOESCHER: Madam Chairman, I
4 have no objection.

5 CHAIRPERSON JAMES: Hearing no objections
6 and with everyone now understanding what we are voting
7 on, did I hear a second on that? We did. We had a
8 discussion. Are you ready for the vote? All in
9 favor, aye. Opposed? This will be the agenda format
10 for the Commission. Mr. Loescher, I understand that
11 you had some other items that you would like to
12 discuss.

13 COMMISSIONER LOESCHER: Yes. Madam
14 Chairman, I have a motion that I would like to
15 distribute and then read. I would like to hereby move
16 that the interim governing rules for the Commission be
17 those of the National Gambling Impact Study Commission
18 provisions authorizing the Commission and its
19 activities, the Federal Advisory Committee Act, and
20 Roberts Rules of Order. I so move.

21 CHAIRPERSON JAMES: Hearing no second, the
22 motion dies.

1 COMMISSIONER LOESCHER: Madam Chairman, I
2 have an additional motion. I would like to --

3 CHAIRPERSON JAMES: For the record,
4 though, I would like to comment that that is exactly
5 what we are operating under. As a matter of fact, at
6 the first meeting, we said we would operate under
7 Roberts Rules of Order. We are statutorily required
8 to follow the Federal Advisory Committee Act. So that
9 really is a restatement of the obvious. There is no
10 one here that wants to break the law. What is that?

11 COMMISSIONER BIBLE: If we are operating
12 under it, I will second the motion.

13 CHAIRPERSON JAMES: Well, it is an
14 unnecessary motion. I mean that is what we are doing
15 and it is already gone.

16 COMMISSIONER LOESCHER: Madam Chairman,
17 did you recognize his second or did you not?

18 CHAIRPERSON JAMES: Well, the only reason
19 that I have -- there are other things that should be
20 added to this if we are, in fact, going to operate
21 under it. If we are going to vote on that. I have
22 heard a motion. I have heard a second. I would like

1 to open it up for discussion and since you want to
2 have a vote, we will. Carol, you had a point?

3 MS. SIMPSON: The only point that I had is
4 you are also operating under the regulations under
5 FACA and a bunch of other federal laws that aren't
6 listed on there. So you certainly don't want to make
7 a motion to rule not to operate under other applicable
8 federal law.

9 CHAIRPERSON JAMES: I would simply say
10 that you may want to consider from someone a friendly
11 amendment that says we will operate under all
12 applicable federal law and regulations.

13 COMMISSIONER LOESCHER: Madam Chairman,
14 could we add that to the language?

15 CHAIRPERSON JAMES: We certainly can.

16 COMMISSIONER LOESCHER: Thank you very
17 much.

18 CHAIRPERSON JAMES: I have no clue why Mr.
19 Loescher wants to do this, but I am certainly happy to
20 accommodate his request. It is redundant. It is a
21 statement of the fact. I think that if we, as
22 Commissioners, have to vote that we are going to obey

1 the law, we are in trouble. But since Mr. Bible and
2 Mr. Loescher would like to vote to obey the law, I
3 certainly have no reason to --

4 COMMISSIONER BIBLE: Well, Roberts Rules
5 of Order are not mentioned in the law.

6 CHAIRPERSON JAMES: No. We adopted that at
7 the first meeting, Mr. Bible.

8 COMMISSIONER BIBLE: We did not adopt that
9 by vote, did we?

10 CHAIRPERSON JAMES: We came by consensus,
11 and it is in the transcripts, that we would operate
12 under Roberts Rules of Order.

13 COMMISSIONER LOESCHER: Madam Chairman,
14 the minutes don't reflect that.

15 CHAIRPERSON JAMES: It is in the minutes.

16 COMMISSIONER LOESCHER: I don't think so.

17 CHAIRPERSON JAMES: Would someone like to
18 look at the transcripts? Is this really necessary,
19 folks?

20 COMMISSIONER LOESCHER: Madam Chairman,
21 there is a motion on the floor. It is duly seconded,
22 and I would like to call for a vote.

1 CHAIRPERSON JAMES: Well, are you -- would
2 you restate the motion?

3 COMMISSIONER LOESCHER: Yes. The motion
4 reads, with the friendly amendment, "I hereby move
5 that the interim governing rules for the Commission be
6 those of the National Gambling Impact Study Commission
7 provisions authorizing the Commission and its
8 activities, Federal Advisory Committee Act, and
9 Roberts Rules of Order, and other applicable law and
10 regulations."

11 CHAIRPERSON JAMES: If we would like to
12 have a vote that we are all going to obey the law, I
13 would like to call for the vote. Is there a second
14 for that? I think Mr. Bible did second that. Yes, he
15 did. All in favor? Opposed?

16 COMMISSIONER MOORE: Abstain.

17 CHAIRPERSON JAMES: Thank you. I am
18 delighted that there are no Commissioners who are
19 going to vote to break the law.

20 COMMISSIONER LOESCHER: Madam Chairman,
21 one last motion before we break for lunch. I would
22 like to distribute it. I would like to make a motion

1 and I would request a second --

2 COMMISSIONER BIBLE: Before you make the
3 motion, wait until we get it distributed.

4 COMMISSIONER LOESCHER: Okay.

5 COMMISSIONER BIBLE: I am having trouble
6 keeping up.

7 COMMISSIONER LOESCHER: Okay. Madam
8 Chairman, I hereby move that the National Gambling
9 Impact Study Commission retain a lawyer to act as
10 general counsel to the Commission. Candidates for
11 such position will be interviewed by a committee of
12 the Commission and a recommendation shall be made to
13 the full Commission. General counsel will be
14 appointed by a vote of the majority of the members of
15 the Commission. I so move?

16 CHAIRPERSON JAMES: Do I hear a second?

17 COMMISSIONER LANNI: I will second that.

18 COMMISSIONER BIBLE: I believe -- why
19 don't we ask the gentleman from GSA. I believe that
20 goes beyond the statutory authority.

21 CHAIRPERSON JAMES: It does indeed.

22 MR. SNOWDEN: Let me make a comment. This

1 motion goes beyond the statutory authority vested in
2 the legislation. The legislation says that the Chair
3 will appoint the executive director upon consent or
4 approval of the body. Then it goes on to say -- I am
5 paraphrasing now, not word for word -- the Chair then
6 has the authority -- may hire all additional staff
7 necessary to meet the charges mandated by this law.
8 I am paraphrasing the law.

9 To say that -- so what this says is the
10 Chair makes the hiring decisions. And it is
11 discretionary, clearly. But the authority resides
12 with her. We cannot do anything -- this body cannot
13 do anything that Congress has not authorized it to do.
14 It is said that this is how the personnel will be
15 hired by this group. So this motion is in violation
16 of the law.

17 CHAIRPERSON JAMES: Mr. Loescher, would
18 you like to withdraw the motion?

19 COMMISSIONER LOESCHER: Madam Chairman,
20 absolutely not. Notwithstanding opinion of GSA
21 counsel, I am of the view that we need to have a
22 general counsel for this Commission that has the

1 broader depth of knowledge and experience on the wide
2 range of issues that are to come before the
3 Commission. And whether the Chair finds a general
4 counsel and recommends them to the Commission for
5 ratification or whatever process we have, I believe
6 there is substantial merit in this Commission
7 retaining a general counsel that has broad experience.

8 COMMISSIONER LANNI: Madam Chair, I am
9 going to withdraw my second on the basis of the
10 counsel's advice from GSA.

11 CHAIRPERSON JAMES: With no second, there
12 is no vote necessary and the motion dies. Any other
13 business to come before the -- Mr. Wilhelm?

14 COMMISSIONER WILHELM: Two things. For
15 the record, I didn't second Mr. Loescher's last motion
16 on account of the opinion of GSA counsel, but I would
17 like to express the hope that the Chair would appoint
18 a general counsel. I think what we have seen here
19 this morning indicates that that is critically
20 important.

21 Secondly, although I believe I know the
22 answer to this, for the benefit of the public, Kay, it

1 seems to me that it might be helpful, unless I missed
2 it and you already did it, if you identified the
3 Commissioners that you indicated earlier you have
4 asked to assist in the interview process.

5 CHAIRPERSON JAMES: Yes. I think I did.
6 That is Dr. Moore and Mr. Leone.

7 COMMISSIONER WILHELM: Thank you.

8 CHAIRPERSON JAMES: And I am happy to
9 report to you at this point in time that I have
10 interviewed several general counsel candidates and
11 have not made a selection at this particular point in
12 time. But I believe, as has been evidenced here
13 today, that it is very important. Let me say this,
14 and particularly as we go into our discussions
15 tomorrow of some of the rules. My instructions to
16 staff were set policy aside. What is important to me
17 as the Chairman of this Commission is to operate in a
18 fair, balanced, objective, and neutral manner.

19 In that regard, it is important to me to
20 have the best counsel appropriate. And in looking at
21 the rules that have been suggested by various
22 Commission members, staff has contacted the Office of

1 Legal Counsel at the Justice Department, GAO, GSA,
2 Senate Ethics, and I am not prepared -- and the world
3 -- I have asked the world for the best legal advice to
4 bring to this Commission as we discuss these thorny
5 issues. And as a result of that, I am not going to
6 recommend anything to this Commission that I believe,
7 based on the best advice and counsel that we have
8 received from every federal agency that we have
9 contacted, that is in violation of a law or
10 regulation.

11 And so I would hope that in the interest
12 of moving things along and in the interest of getting
13 a work product done and getting to what the public has
14 asked us to do, which is to study the social and the
15 economic impact of gambling, that we can do that. And
16 as we have problems, when we have them, I know that
17 you will bring them here. And we will have
18 administrative problems, and we will fix them when we
19 do.

20 I think that at this point, we are trying
21 to fix things that are not broken. We are trying to
22 limit the scope and the responsibilities of the Chair

1 and of the staff. And I think that we are trying to
2 spend a great deal of time of this Commission on these
3 kind of issues right now when what we really want to
4 do is to do some work for the American people and
5 produce a study.

6 So with that in mind, I am going to call
7 the meeting in recess at this point. We will have a
8 lunch break. It is now 12:30. We were scheduled to
9 return at 1:30, and at that time, we will hear the
10 presentations from ACIR and NRC. The meeting stands
11 adjourned.

12 (Whereupon, at 12:24 p.m., the meeting was
13 adjourned for lunch to reconvene this same day at 1:35
14 p.m.)

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1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 (1:35 p.m.)

3 CHAIRPERSON JAMES: Can Commissioners
4 please take their seats? The meeting is called to
5 order. A couple of administrative things. On the
6 microphones, Commissioners, no more than two can be on
7 at one time. You will know it is on when you see the
8 red light. To facilitate our audience and in the
9 interest, again, of the public facilitating their
10 participation with us. They could not hear in the
11 back. We have now put a speaker in the back of the
12 room. Can you all hear better back there now? I do
13 apologize for the inconvenience this morning.

14 As stated in the enabling legislation, the
15 primary purpose of this Commission is to conduct
16 research on the impact of gambling. And to do this,
17 we are instructed to contract with two entities, the
18 Advisory Commission on Intergovernmental Relations and
19 the National Research Council of the National Academy
20 of Sciences. Today, we are joined by representatives
21 of both organizations to hear presentations on the
22 nature of these contracts.

1 At the last meeting, Commissioner Loescher
2 indicated that some preliminary work on the scope and
3 process for these contracts should be conducted, and
4 I believe that the research subcommittee work
5 addresses these important suggestions.

6 I am going to ask if the representatives
7 from ACIR would come forward. Charles Griffiths is
8 here today from the Advisory Committee on
9 Intergovernmental Relations. ACIR is specifically
10 tasked to complete a thorough review and cataloging of
11 all applicable federal, state, local, and Native
12 American tribal laws and regulations and ordinances
13 pertaining to gambling and to provide assistance in
14 conducting the other studies required under the law.
15 The law stipulates that their report shall be
16 submitted no later than September 20, 1998. Mr.
17 Griffiths became the Executive Director of ACIR in May
18 of 1997, after serving there since 1992. Mr.
19 Griffiths will make a presentation and then answer
20 questions from Commissioners.

21 Mr. Griffiths, welcome. We are pleased to
22 have you with us today.